



COMMONWEALTH of VIRGINIA
Office of the Attorney General

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MEMORANDUM

TO: BRIAN MCCORMICK
Regulatory Supervisor
Department of Medical Assistance Services

FROM: USHA KODURU
Assistant Attorney General

DATE: March 9, 2010

SUBJECT: Proposed Regulation to Clarify Determination of Eligibility Under the Health Insurance Premium Payment Program

I have reviewed the attached proposed regulation regarding the inclusion of existing family healthcare coverage as a factor in determining eligibility under the Health Insurance Premium Payment (“HIPP”) program. You asked the Office of the Attorney General to review and determine if the Department of Medical Assistance Services (“DMAS”) has the legal authority to amend this regulation and if the proposed amendments comport with state and federal law.

Based on my review, DMAS has the authority to promulgate these amendments, subject to compliance with Article 2 of the Administrative Process Act and has not exceeded that authority. Virginia Code §§ 32.1-324 and 32.1-325 grant to the Board of Medical Assistance Services the authority to administer and amend the plan for Medical Assistance and authorizes the Director of DMAS to take action according to the Board’s requirements. The authority for some of these changes to the proposed regulation derives from Chapter 781, Item 306 AAA of the 2009 Acts of the Assembly and the remaining changes are pertinent to the HIPP program.

If you have any questions or need any additional information, please call me at 786-4074.

cc: Kim F. Piner
Senior Assistant Attorney General